

**IN THE DRAWINGS:**

In the Office Action at item 5, the Examiner objected to the drawings. In order to overcome these objections, a new figure, FIG. 3 is submitted herewith. Approval of these changes to the Drawings is respectfully requested.

### **REMARKS**

In accordance with the foregoing, new drawing Figure 3 is presented, the specification is amended, and claims 5, 8, 12-14, and 19 are amended. No new matter is presented, and accordingly approval and entry are respectfully requested.

Claims 9 and 10 are cancelled herein without prejudice or disclaimer.

Claims 3-8, 11-14, and 19-20 are pending and under consideration. Reconsideration is requested.

#### **New Drawing and Specification Amendments**

In the Office Action at item 5, the Examiner objected to the drawings. In order to overcome these objections, a new figure, FIG. 3 is submitted herewith. Support for Figure 3 is found, for example, in paragraphs [0008] and [0034]-[0040] of the specification.

Paragraphs [0020] and [0037] of the specification are amended accordingly

No new matter is presented, and accordingly approval and entry are respectfully requested.

#### **Claim Amendments**

Independent claim 19 is amended herein to include features of dependent claims 9 and 10 cancelled herein without prejudice or disclaimer.

Independent claim 19 is also amended therein to clarify wording and recite a method including "...temporarily switching to a static resource reservation mode, by the resource manager, upon receiving the topology change information indicating an inconsistency between a topology image stored in the resource manger and the network topology ..." Support for the amendment is found, for example, in paragraph [0037] of the specification.

Dependent claims 5, 8, 12-14 and 19 are amended herein as suggested by the Examiner to correct formalities.

Claim 12 is further amended herein to clarify wording and reflect a more accurate translation of the original foreign priority document.

No new matter is presented, and accordingly approval and entry are respectfully requested.

#### **Item 5: Objection to the Drawings**

In item 5 of the Office Action, the Examiner objects to the drawings under 37 CFR

1.83(a). (Action at pages 2-3). The Examiner asserts that the subject matter of claim 19 must be shown or the features cancelled from the claims.

New Figure 3 is presented herein. As set forth in 37 CFR 1.81, the applicant is required to furnish a drawing where necessary for the understanding of the subject matter sought to be patented. Applicant submits that Figures 1-3 and the specification support the necessary understanding of the subject matter sought to be patented.

Thus, withdrawal of the objections to the drawings is requested.

**Items 7-14: Objection to Claims**

In items 7-14 of the Office Action, the Examiner objects to claims 3-14, 19 and, 20 because of the following informalities. (Action at pages 3-4).

Claims 5, 8, 12-14, and 19 are amended herein to address the Examiner's concerns and to correct informalities. Thus, withdrawal of the objection is requested.

**Items 15-17: Rejection of Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite**

In items 15-17 of the Office Action, the Examiner rejects claim 19 under 35 U.S.C. 112, second paragraph. The Examiner asserts:

[I]t is not clear how entering into a static resource reservation mode would affect automatic checking of transmission resources, since no explicit actual steps are recited regarding the static resource reservation mode. Furthermore, no meaningful interpretation can be derived from "a static resource reservation mode," since it is merely a name without any descriptions of what it is or what to do during that mode (i.e., it is not clear whether the resource reservation is static during the mode, and what the word "static" really means...)

(Action at page 5).

Claim 19 is amended herein to a method including "...analyzing topology change information generated as a result of the topology change of the network topology and received by the resource manager; temporarily switching to a static resource reservation mode, by the resource manager, upon receiving the topology change information indicating an inconsistency between a topology image stored in the resource manger and the network topology; transferring a localization specification with the topology change information to specify an area of the packet-oriented communication network affected by the topology change; rejecting, by the resource manager in the static resource reservation mode, resource requests that affect the area specified by the localization specification, regardless of the resource reservation of the transmission resources; and processing, by the resource manager in the static resource reservation mode, resource requests that do not affect the area specified by the localization

specification based on the reservation of transmission resources present before the topology change."

Applicants submit that the Examiner's concerns are addressed and that claim 19, as amended herein complies 35 USC 112, second paragraph. Thus, withdrawal of the objection is requested.

**Items 19-36: Rejection of claims under 35 U.S.C. §103(a)**

In items 19-36 of the Office Action, the Examiner rejects independent claim 19 and dependent claims 3-8, 11-14, and 20 under 35 U.S.C. §103(a) as being unpatentable over Sundqvist et al. (WO 02/21797) in view of combinations of Valeroso et al. (Performance Analysis of Resource Reservation Strategies in Broadband Networks), Dinker, Prehofer et al. (Scalable Resource Management Architecture for VoIP, 2000, "what has been known in the art (hereafter ON).") The rejections are traversed.

Applicants point out that the features of claims 9 and 10 are now included in independent claim 19. Claim 19 recites a method for checking, by a resource manager in an automatic process, transmission resources of a packet-oriented communication network upon a topology change, including:

- a) "checking reservation of the transmission resources based on topology data relating to network topology of the packet-oriented communication network;"
- b) "analyzing topology change information generated as a result of the topology change of the network topology and received by the resource manager;"
- c) "temporarily switching to a static resource reservation mode, by the resource manager, upon receiving the topology change information indicating an inconsistency between a topology image stored in the resource manager and the network topology;"
- d) "transferring a localization specification with the topology change information to specify an area of the packet-oriented communication network affected by the topology change;
- e) "rejecting, by the resource manager in the static resource reservation mode, resource requests that affect the area specified by the localization specification, regardless of the resource reservation of the transmission resources;" and
- f) "processing, by the resource manager in the static resource reservation mode, resource requests that do not affect the area specified by the localization specification based on the reservation of transmission resources present before the topology change."

Applicants submit that features recited by at least independent claim 19 are not taught nor suggested by even an *arguendo* combination of the art of record.

In rejecting dependent claim 9, features of which are now included in claim 19, the Action concedes that a combination of Sundqvist-Valeroso-Dinker does not teach "transferring a localization specification with the topology change information to specify an area of the packet-oriented communication network affected by the topology change." (Action at page 10).

However, the Examiner asserts that

Prehofer discloses localization specification specifying an area of the packet-oriented communication network affected by the topology change (fig. 6, section 6.1, par. 4 and 5, multiple resource management domains specifying an area of topology change) . . . obvious . . . to combine the teachings of Sundqvist, Valeroso, Dinker and Prehofer to divide a large network into small resource management domains to reduce performance requirement for each resource manager and faster reaction times (Prehofer, section 6.1, par. 4).

(Action at page 10).

In rejecting claim 10, features also of which are now included in claim 19, the Examiner concedes that a combination of Sundqvist, Valeroso, Dinker, and Prehofer does not disclose rejecting resource requests regardless of transmission resource. However, the Examiner takes Official notice (ON)

rejecting resource requests regardless of transmission resource is well known in the art at the time of the invention (see e.g., Ma, US 6,493,317, col. 2 lines 49-51, rejecting requests regardless of available resources) . . . obvious for one skilled in the art at the time of the invention to combine the teachings of Sundqvist, Valeroso, Dinker and Prehofer and what has been known in the art to reject requests regardless of available resources to block all resource requests and make the resources available.

(Action at page 11).

I. Applicants submit that none of the art of record discloses a method including "temporarily switching to a static resource reservation mode, by the resource manager, upon receiving the topology change information indicating an inconsistency between a topology image stored in the resource manger and the network topology," as recited by claim 19.

That is, even an *arguendo* combination of the art does not teach a resource manager that temporarily enters into a static resource reservation mode as a result of receiving the topology change information, as the Examiner asserts.

Applicants point out that claim 19 recites a causal connection of a method "... temporarily switching to a static resource reservation mode, by the resource manager, upon receiving the topology change information indicating an inconsistency between a topology image stored in the resource manger and the network topology..."

That is, a causal connection between receiving the topology change information and entering the static resource reservation mode.

The Examiner support for the rejection does not address this causal connection. Further, none of the art of record teach the same.

Applicants submit that the "call connection initiation" disclosed by Valeroso does not teach topology change information since a setup of a call does not change the network topology nor indicate such a change. Valeroso does not teach a relation to topology changes.

Further, there is no causal connection between the call initiation disclosed in the introduction on page 307 of Valeroso and the Static Resource Reservation Model mentioned later in chapter III, cited by the Examiner.

By contrast, Valeroso merely teaches a Static Resource Reservation Model that is one of three models used to simulate system behavior and performance of communication networks (See, for example, p. 308, left col., par. 3-4). Valeroso discloses all simulation models are closed scenarios with different assumptions about various network properties.

Valeroso does not teach a transition between different models.

Thus, Valeroso does not teach, and in fact teaches away from, the "temporarily switching" to a static resource reservation mode, as recited by claim 19, for example.

Valeroso does not teach a simulation framework with a temporary mode of an operating device. By contrast, simulation models of Valeroso are run by the scientists conducting the simulation and not "entered" by a resource manager in dependence on received messages.

II. Further, Prehofer and other art of record do not teach "transferring a localization specification with the topology change information to specify an area of the packet-oriented communication network affected by the topology change," as recited by claim 19.

In particular, the art of record does not teach localization specification is transferred with topology change information.

III. None of the art of record teach rejecting, by the resource manager in static resource reservation mode, resource requests which affect the area specified by the localization specification, as recited by claim 19.

In particular, Dinker does not disclose rejecting resource requests which affect the area specified by the localization information. Rather, Dinker merely teaches rejecting a request from another node to join the cluster. Such a request is not a resource request.

Furthermore, such a request taught by Dinker, or rejection of the same, does not depend on a localization specification.

Valeroso merely teaches a rejection of a negotiate request, that is not a resource request. Further, Valeroso teaches a rejection is independent from any localization specification. (See, for example, Fig. 2).

III. Further, a combination of the art of record does not teach "processing, by the resource manager in the static resource reservation mode, resource requests that do not affect the area specified by the localization specification based on the reservation of transmission resources present before the topology change."

Prehofer does not teach a static resource reservation mode nor a dependency of resource requests thereon. Furthermore, Prehofer does not teach a resource request is specifically processed according to reservations present before a topology change, if that resource request does not affect the indicated area.

IV. Further, the art of record does not teach nor suggest the causal connection of the features recited by claim 19. That is, if the resource request does affect a specified area the resource request is rejected, and otherwise (if the resource request does not affect the specified area) the resource request is processed on the basis of the reservations present before the topology change.

V. Applicants respectfully traverse the Examiner's statements regarding Official Notice and point out the following errors in the Examiner's action. First, the Examiner uses common knowledge as a principal evidence for the rejection. That is the Examiner concedes that a combination of Sundqvist, Valeroso, Dinker, and Prehofer does not disclose rejecting resource requests regardless of transmission resource but relies on a combination of the art of record with Official Notice in Support of the rejection. As set forth MPEP § 2144.03(e):

any facts so noticed should . . . serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground of rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

Applicants submit that the noticed facts are not considered to be common knowledge or well-known in the art. In this case, the limitation is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, these limitations are unique to the present invention. See MPEP § 2144.03(a) ("the notice of facts beyond the record

which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute").

Further, if the Examiner also bases the rejection, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such an assertion with an affidavit when called for by the Applicant. Thus, Applicants call upon the Examiner to support such assertion with an affidavit.

Applicants submit that while *arguendo* it might be known that resource requests may be rejected, the features and functional combinations of the same, as recited by claim 19 are not well known. In particular, it is not well known to reject resource requests regardless of transmission resource if the resource requests do affect the specific area and process resource requests based on reservations before the topology change if the resource requests do not effect that area.

Furthermore it is not well known to carry out the operations in the method recited in claim 19, i.e., a static resource reservation mode

Further, Applicants submit that one of ordinary skill in the art would not, without prior knowledge of the invention, choose from art of record the specific single features (out of context) and combine the same, in a manner as the Examiner asserts:

Further, as set forth in *In re Oelrich* a "mere fact that a certain thing may result from a given set of circumstances is not sufficient." (See, for example, *In re Oelrich*, 666 F.2d 578, 581 (CCPA1981). See also *Ex parte Skinner*, 2 USPQ2d 1788, 1789 (BPAI 1986)("[T]he examiner must provide some evidence or scientific reasoning to establish the reasonableness of the examiner's belief that the functional limitation is an inherent characteristic of the prior art").

Dependent claims 3-8, 11-14, and 20 recite patentably distinguishing limitations of their own or are at least patentably distinguish over the art relied on by the Examiner in support of the §103 rejection due to their respective dependence from the independent claim 19.

Applicant submits this traversal meets the Consideration of Applicant's Rebuttal Evidence Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in View of the Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* of October 3, 2007 and the elements in combination do not merely perform the function that each element performs separately, and the results of the claimed combination were unexpected.



**Summary**

Since features recited by independent claim 19 and dependent claims 3-8, 11-14, and 20 are not taught by an *arguendo* combination of the art of record and a combination, in a manner as asserted by the Examiner, is not reasonable, the rejection should be withdrawn and claims 3-8, 11-14, and 19-20 allowed.

**Conclusion**

Thus, it is submitted that claims are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

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By: Paul W. Bobowiec  
Paul W. Bobowiec  
Registration No. 47,431

1201 New York Avenue, N.W., 7th Floor  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501